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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,959	07/16/2003	Myron K. Gordin	P05717US01	9987

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MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/620,959

Applicant(s)

GORDIN ET AL.

Examiner

Steve M Varner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-19, 21, 28-39, 41-49 and 52-54 is/are rejected.
- 7) ☒ Claim(s) 16, 20, 22-27, 40, 50, 51 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 28, are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson.

Regarding claim 1, Erickson shows a covering layer (11) of non-corrosive material (Col. 2, Line 50-65) positionable around at least a part of a pole (10) exterior (Fig. 1).

Regarding claim 28, Erickson shows a fastener (13) and engagement with the pole or structure attached to the pole (Fig. 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 4, 13-15, 17-19, 21, 31-39, 41, 42-46, 48, 49, 52, 53, are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla in view of Hawley's.

Regarding claim 1, Padilla shows a covering layer (38) of non-corrosive material (Col. 5, Line 50-60) positionable around at least a part of a pole (10) exterior (Fig. 4).

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The non-corrosive material is polyvinyl chloride (Col. 5, Line 50-60) (Hawley's, Page 908).

Regarding claim 2, Padilla does not show the pole is 30 foot or longer when assembled. It would have been an obvious design choice to have a 30-foot high pole to accommodate ceilings when they are higher above the floor.

Regarding claim 3, Padilla shows the pole (10) is made of tubular material (Fig. 2).

Regarding claim 4, Padilla shows the tubular material is steel (Col. 4, Line 9).

Regarding claims 13-15, 17-19, Padilla shows wherein the covering layer comprises a sheet material (38) wherein the sheet material is resilient (Col. 5, Line 50-60) which implies flexible wherein the sheet material comprises vinyl in the form of polyvinyl chloride (Col. 5, Line 50-60) wherein the sheet material is a fraction of an inch thick (Col. 5, Line 50-60) wherein the fraction of an inch thick is approximately .040 inches thick (Col. 5, Line 50-60) wherein the sheet material has top, bottom and opposite side edges.

Regarding claim 21, Padilla shows the basic claimed structure. Padilla does not show the sheet material is trapezoidal when in a flat configuration. It would have been an obvious design choice to make the sheet material trapezoidal to accommodate tapered poles.

Regarding claims 31-36, Padilla shows an opening formed in the covering (circular opening at top and bottom of tube 38) wherein the opening formed in the cover layer corresponds to an opening or structure on the pole further comprising a sealing

member (44), further comprising a seal (44) on top of the covering layer relative the hole wherein the seal comprises a caulk-type material wherein the covering layer substantially covers all of a pole (Fig. 3-5).

Regarding claims 37-39, 41, Padilla does not show a colored or patterned covering layer design to match an environmental feature or a recognized combination of colors indicating affiliation with a group or organization. These features are obvious design choices for aesthetic reasons.

Regarding method claims 42-46, 48, 49, 52, 53, the claimed methods are the obvious methods of protecting at least part of the pole, wrapping a portion of the pole, securing adjacent portions, securing the sleeve against longitudinal movement, applying a plurality of sleeves in overlapping fashion, overlapping succeeding portions, sealing the top, using color, texture, or pattern of Padilla's modified cushioned pole cover and method of applying the cover.

Claims 5-12, 47, are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla in view of Hawley's in further view of Beecker.

Regarding claims 5-9, Padilla in view of Hawley's shows the basic claimed structure. Padilla in view of Hawley's does not show the pole is tapered, slip-fittable to a base positioned in the ground or on a support wherein the poles are elongated wherein the pole comprises a plurality of sections wherein the sections slip-fit together. Beecker shows the pole is tapered (Fig. 1), slip-fittable to a base (16 to 14) positioned in the ground or on a support wherein the poles are elongated wherein the pole comprises a plurality of sections (20, 18, 16) wherein the sections slip-fit together (Fig. 1, 2). It would

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have been obvious to one of ordinary skill in the art at the time the present invention was made to use a pole as in Beecker in the structure of Padilla in view of Hawley's to enable a tall pole to be assembled in more manageable sections. If the pole was not in sections it would be difficult to transport.

Regarding claims 10-12, Padilla shows an independent covering layer (38) for each pole section wherein each of the plurality of covering layers overlaps an adjacent covering layer (at 49) wherein the overlapping is succeeding lower parts over preceding upper parts of covering layers (Fig. 4).

Regarding claim 47, the claimed method is the obvious method wherein the pole is tapered and the sleeve is trapezoidal of Padilla modified cushioned pole cover and method of applying the cover.

Claims 16, 50, are rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla in view of Hawley's in further view of Horie.

Regarding claim 16, 50, Padilla in view of Hawley's shows the basic claimed structure. Padilla in view of Hawley's does not show vinyl/acrylic alloy. Horie shows vinyl/acrylic alloy (Col. 1, Line 20-25), which may be used with substrates of polymers to obtain a laminate (Col. 11, Line 55-end). It would have been obvious to one of ordinary skill in the art to use vinyl/acrylic alloy as in Horie to form a laminate with polymers to cover the steel pole for protection from corrosion.

Claims 29, 30, 54, are rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson.

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Regarding claim 29, Erickson does not show a screw. Screws are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a screw in the structure of Erickson to hold the cladding to the pole.

Regarding claim 30, Erickson does not show a bolt and the item attached to the pole a nut. Bolts with nuts are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a bolt and a nut in the structure of Erickson to attach the cladding to the pole.

Regarding claim 54, Erickson shows an elongated pole (10). Erickson does not show the pole thirty feet or more in length. It would have been an obvious design choice to have a thirty-foot pole to string telephone wires from. Erickson shows a non-corrosive cover (11) (Col. 2, Line 50-60) positioned over a substantial portion of the exterior of the pole (Fig. 1).

### ***Claim Objections***

Claims 20, 22-27, 40, 51, 55, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Popowych et al. shows a tree styled monopole tower. Owen et al. shows a method and apparatus for composite pole repair. Bianca et al. shows method of making tapered tubular sections.

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### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600